

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE ENROLLED ACT No. 242

AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-14-3-4, AS AMENDED BY HEA 1935-2003, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
- (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
- (3) Those required to be kept confidential by federal law.
- (4) Records containing trade secrets.
- (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
- (6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:
 - (A) concerning any negotiations made with respect to the research; and
 - (B) received from another party involved in the research.
- (7) Grade transcripts and license examination scores obtained as



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part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the Indiana film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under

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section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

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- (13) The work product of the legislative services agency under personnel rules approved by the legislative council.
- (14) The work product of individual members and the partisan staffs of the general assembly.
- (15) The identity of a donor of a gift made to a public agency if:
 - (A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or
 - (B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.
- (16) Library or archival records:
 - (A) which can be used to identify any library patron; or
 - (B) deposited with or acquired by a library upon a condition that the records be disclosed only:
 - (i) to qualified researchers;
 - (ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or
 - (iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

- (17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing ~~medical advisory committee~~ **board**. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

- (18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

- (19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

- (A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;
- (B) vulnerability assessments;
- (C) risk planning documents;
- (D) needs assessments;



- (E) threat assessments;
- (F) domestic preparedness strategies;
- (G) the location of community drinking water wells and surface water intakes;
- (H) the emergency contact information of emergency responders and volunteers;
- (I) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and
- (J) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection without the prior approval of the public agency. The submitting public agency:
 - (i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and
 - (ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(19)(I) without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

- (A) Telephone number.
- (B) Address.
- (C) Social Security number.**

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified

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as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Notwithstanding subsection (d) and section 7 of this chapter:

- (1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or
- (2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 2. IC 8-2.1-24-18, AS AMENDED BY SEA 474-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) 49 CFR Parts 382 through 387, 390 through 393, and 395 through 398 is incorporated into Indiana law by reference, and, except as provided in subsections (d), (e), (f), and (g), must be complied with by an interstate and intrastate motor carrier of persons or property throughout Indiana. Intrastate motor carriers subject to compliance reviews under 49 CFR 385 shall be selected according to criteria determined by the superintendent which must include but is not limited to factors such as previous history of violations found in roadside compliance checks and other recorded violations. However, the provisions of 49 CFR 395 that regulate the hours of service of drivers, including requirements for the maintenance of logs, do not apply to a driver of a truck that is registered by the bureau of motor vehicles and used as a farm truck under IC 9-18, or a vehicle operated in intrastate construction or construction related service, or the restoration of public utility services interrupted by an emergency. Except as provided in subsection (i), intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue as an intrastate motor carrier and displaying the certification number issued by the department of state revenue preceded by the letters "IN". Except as provided in subsection (i), all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

(b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177 through 178, and 180, is incorporated into Indiana law by reference, and every:

- (1) private carrier;
- (2) common carrier;
- (3) contract carrier;
- (4) motor carrier of property, intrastate;
- (5) hazardous material shipper; and
- (6) carrier otherwise exempt under section 3 of this chapter;



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must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

- (1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.
- (2) The shipment of goods is limited to intrastate commerce.
- (3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination of these substances.

All additional federal standards for the safe transportation of hazardous materials apply until July 1, 2000. After June 30, 2000, the maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection after June 30, 1998.

(d) For the purpose of enforcing this section, only:

- (1) a state police officer or state police motor carrier inspector who:
 - (A) has successfully completed a course of instruction approved by the Federal Highway Administration; and
 - (B) maintains an acceptable competency level as established by the state police department; or
- (2) an employee of a law enforcement agency who:
 - (A) before January 1, 1991, has successfully completed a course of instruction approved by the Federal Highway Administration; and
 - (B) maintains an acceptable competency level as established by the state police department;

on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as incorporated by this section.

(f) Notwithstanding any provision of 49 CFR 391 to the contrary, a person at least eighteen (18) years of age and less than twenty-one (21) years of age may be employed as a driver to operate a commercial motor vehicle intrastate. However, a person employed under this

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subsection is not exempt from any other provision of 49 CFR 391.

(g) Notwithstanding subsection (b), the following provisions of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce while employed in construction or construction related service:

(1) Subpart 391.41(b)(3) as it applies to physical qualifications of a driver who has applied for or holds a commercial driver's license (as defined in IC 9-13-2-29), diagnosed as an insulin dependent diabetic, if the driver has applied for and been granted an intrastate medical waiver by the bureau of motor vehicles completed and signed by a certified endocrinologist or the driver's treating physician attesting that the driver:

(A) is otherwise physically qualified under Subpart 391.41 to operate a motor vehicle and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;

(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;

(C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;

(D) has agreed to and, to the endocrinologist's or treating physician's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and

(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist or treating physician at the time of the annual medical examination.

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist or treating physician with the bureau of motor vehicles for review by the driver licensing **medical advisory committee board** established under IC 9-14-4. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official.

(2) Subpart 396.9 as it applies to inspection of vehicles carrying

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or loaded with a perishable product. However, this exemption does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include refrigerated vehicles loaded with perishables when the refrigeration unit is working.

(3) Subpart 396.11 as it applies to driver vehicle inspection reports.

(4) Subpart 396.13 as it applies to driver inspection.

(h) For purposes of 49 CFR 395.1(l), "planting and harvesting season" refers to the period between January 1 and December 31 of each year. The intrastate commerce exception set forth in 49 CFR 395.1(l), as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate carrier or a guest operator not engaged in interstate commerce and operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise.

(j) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

SECTION 3. IC 9-14-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The commissioner ~~may~~ **shall** create a driver licensing ~~medical advisory committee~~ **board**.

SECTION 4. IC 9-14-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The ~~committee board~~ consists of five (5) members, **of whom:**

(1) two (2) members must have unlimited licenses to practice medicine in Indiana, **including one (1) neurologist with expertise in epilepsy;** and

(2) one (1) member must be licensed as an optometrist.

The ~~committee board~~ members serve at the pleasure of the commissioner.

SECTION 5. IC 9-14-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. A ~~committee board~~ member is entitled to be reimbursed for travel expenses necessarily incurred in the performance of the member's duties and is also entitled to receive a salary per diem as prescribed by the budget agency.



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SECTION 6. IC 9-14-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The ~~committee board~~ shall provide the commissioner with ~~technical resources to assist~~ **assistance** in the administration of Indiana driver licensing laws, including:

- (1) providing ~~advice, technical knowledge, and~~ guidance to the commissioner in the area of licensing drivers with health or other problems that may adversely affect a driver's ability to operate a vehicle safely;
- (2) **recommending factors to be used in determining qualifications and ability for issuance and retention of a driver's license; and**
- (3) **recommending and participating in the review of license suspension, restriction, or revocation appeal procedures.**

SECTION 7. IC 9-14-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The commissioner may request assistance from any of the ~~committee board~~ members at any time.

SECTION 8. IC 9-14-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. A member of the ~~committee board~~ is exempt from a civil action arising or thought to arise from an action taken in good faith as a member of the ~~committee board~~.

SECTION 9. IC 9-14-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The evaluation of medical reports for the commissioner by a member of the ~~committee board~~ does not constitute the practice of medicine. This chapter does not authorize a person to engage in the practice of the healing arts or the practice of medicine as defined by law.

SECTION 10. IC 9-24-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The bureau, when issuing a permit or license under this article, may, whenever good cause appears, impose restrictions suitable to the licensee's or permittee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle that the licensee operates. The bureau may impose other restrictions applicable to the licensee or permittee that the bureau determines is appropriate to assure the safe operation of a motor vehicle by the licensee or permittee, **including a requirement to take prescribed medication.** When the restrictions are imposed, the bureau may issue either a special restricted license or shall set forth the restrictions upon the usual license form.

SECTION 11. IC 9-24-11-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) Except as provided in ~~subsection~~ **subsections (b) and (c)**, a person who violates

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this chapter commits a Class C infraction.

(b) A person who:

(1) has been issued a permit or license on which there is a printed or stamped restriction as provided under section 7 of this chapter; and

(2) operates a motor vehicle in violation of the restriction;

commits a Class C misdemeanor. The license of a person who violates this subsection may be suspended in the manner provided for the suspension or revocation of an operator's license.

(c) A person who causes serious bodily injury to or the death of another person when operating a motor vehicle after knowingly or intentionally failing to take prescribed medication, the taking of which was a condition of the issuance of the operator's restricted license under section 7 of this chapter, commits a Class A misdemeanor. However, the offense is a Class D felony if, within the five (5) years preceding the commission of the offense, the person had a prior unrelated conviction under this subsection.

(d) A person who violates subsection (c) commits a separate offense for each person whose serious bodily injury or death is caused by the violation of subsection (c).

SECTION 12. IC 9-24-11-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10. (a) In addition to any other penalty imposed for a conviction under section 8(c) of this chapter, the court shall recommend that the person's driving privileges be suspended for a fixed period of at least ninety (90) days and not more than two (2) years.**

(b) The court shall specify:

(1) the length of the fixed period of suspension; and

(2) the date the fixed period of suspension begins;

whenever the court makes a recommendation under subsection (a).

SECTION 13. IC 9-24-11-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 11. The bureau shall, upon receiving a record of conviction of a person under section 8(c) of this chapter, set a period of suspension for a fixed period of at least ninety (90) days and not more than two (2) years. The bureau shall fix this period in accordance with the recommendation of the court that entered the conviction, as provided in section 10 of this chapter.**

SECTION 14. IC 9-24-15-1, AS AMENDED BY SEA 474-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2003]: Sec. 1. (a) Except as provided in subsection (b), this chapter does not apply to the following:

(1) A suspension of a driving license upon the failure of an individual to file security or proof of financial responsibility following an accident as required by or upon the failure of any individual to satisfy a judgment for damages arising out of the use of a motor vehicle on a public highway as provided for in IC 9-25.

(2) When suspension is by reason of:

(A) physical, mental, or emotional instability;

(B) **having caused serious bodily injury to or the death of another person when operating a motor vehicle after knowingly or intentionally failing to take prescribed medication, the taking of which was a condition of the issuance of the operator's restricted driver's license;** or if

(C) the applicant has been convicted of involuntary manslaughter or reckless homicide as a result of an automobile accident.

(3) A suspension of the license of an applicant whose license has been previously suspended.

(4) A suspension of the license of an applicant who has failed to use timely appeal procedures provided by the bureau.

(5) After June 30, 2005, a suspension of the license of an applicant whose commercial driver's license has been disqualified under 49 CFR 383.51 or other applicable federal or state law, including an alcohol or a controlled substance conviction under IC 9-30-5-4 or 49 CFR 391.15.

(b) A court may grant a petition for a restricted driving permit from an individual who:

(1) received a request for evidence of financial responsibility after:

(A) an accident under IC 9-25-5-2; or

(B) a conviction of a motor vehicle violation under IC 9-25-9-1; and

(2) failed to provide proof of financial responsibility under IC 9-25-6;

if the individual shows by a preponderance of the evidence that the failure to maintain financial responsibility was inadvertent.

SECTION 15. IC 34-30-2-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. IC 9-14-4-6 (Concerning members of the driver licensing **medical** advisory ~~committee~~; **board**).

SECTION 16. [EFFECTIVE JULY 1, 2003] (a) **After June 30,**



2003, any reference in a statute or rule referring to the driver licensing advisory committee is considered a reference to the driver licensing medical advisory board.

(b) On July 1, 2003, the driver licensing medical advisory board becomes the owner of all the personal property and assets and assumes the obligations and liabilities of the driver licensing advisory committee, as abolished by this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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